

## SUMMARY OF REGULATIONS ON INDEPENDENT DIRECTORS AND NON-EXECUTIVE DIRECTORS

\* Note: For the purposes of this guide, “Directors” means the members of the Board of Directors (also known as the Board of Management) of a Joint Stock Company established under Vietnamese law

		JOINT STOCK COMPANIES (PRIVATELY HELD)		JOINT STOCK COMPANIES (PUBLICLY HELD)		CREDIT INSTITUTIONS
		Model with or without Board of Control under Article 137.1(a) of the Law on Enterprises	Model with Audit Committee and without Board of Control under Article 137.1(b) of the Law on Enterprises	Unlisted Public Company	Listed Public Company	
<b>INDEPENDENT DIRECTORS</b>	<b>Compulsory / Optional</b>	Optional	Compulsory	Compulsory	Compulsory	Compulsory
	<b>Qualifications</b>	<ul style="list-style-type: none"> <li>- Meet the standard of ordinary directors;</li> <li>- Neither currently working nor worked for the company or its parent company or subsidiary in at least the 3 preceding years;</li> </ul>		Similar to those applicable to Joint Stock Companies (Privately Held).		<ul style="list-style-type: none"> <li>- Meet the standard of ordinary directors in a credit institution;</li> <li>- Neither currently working nor worked for the credit institution or its subsidiary in the 3 preceding years;</li> </ul>

		<ul style="list-style-type: none"> <li>- Not receiving any salary or allowance from the company, except for the allowances to which the company's directors are entitled to;</li> <li>- Having no spouse, biological parents, adoptive parents, biological children, adopted children and siblings being major shareholders of the company, executive officers of the company or its subsidiaries;</li> <li>- Not directly or indirectly holding 1% of the company's voting shares or more;</li> <li>- Did not hold the position of director or a member of the Board of Control in at least the 5 preceding years (unless he/she was elected in 2 consecutive terms).<sup>1</sup></li> </ul>			<ul style="list-style-type: none"> <li>- Not receiving any salary or regular allowance of the credit institution, except for the allowances to which the credit institution's directors are entitled to;</li> <li>- Having no spouse, parent, child, sibling and spouses of these persons being major shareholders of the credit institution, executive officers or members of the Board of Control of the credit institution or its subsidiary;</li> <li>- Not directly or indirectly owning or representing ownership of 1% or more of the charter capital or voting share capital; together with his/her related persons not owning 5% or more of the charter capital or voting share capital;</li> <li>- Not being an executive officer or a member of the Board of Control at any time in the 5 preceding years.<sup>2</sup></li> </ul>	
	<b>Requirements</b>	N/A	- At least 20% of the directors must	- If company adopt the corporate structure model	- There must be at least 1 independent director if there	- There must be 5-11 directors in the Board of Directors, including at least 1 independent director;

<sup>1</sup> Article No. 155.2 of the Enterprise Law

<sup>2</sup> Article 50.2 of the Law on Credit Institutions

			<p>be independent directors.<sup>3</sup></p> <ul style="list-style-type: none"> <li>- The chairperson of the Audit Committee must be an independent director.<sup>4</sup></li> </ul>	<p>with an Audit Committee (and without a Board of Control), at least one-fifth (1/5) of the directors must be independent directors.<sup>5</sup></p> <ul style="list-style-type: none"> <li>- The chairperson of the Audit Committee must be an independent director.<sup>6</sup></li> </ul>	<p>are from 3-5 directors in the Board of Directors;</p> <ul style="list-style-type: none"> <li>- There must be at least 2 independent directors if there are from 6-8 directors in the Board of Directors;</li> <li>- There must be at least 3 independent directors if there are from 9-11 directors in the Board of Directors.<sup>7</sup></li> </ul>	<ul style="list-style-type: none"> <li>- The independent director(s) and the non-executive director(s) must constitute at least half of the Board of Directors.<sup>8</sup></li> </ul>
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<sup>3</sup> Article 137.1.b of the Law on Enterprises

<sup>4</sup> Article 161 of the Law on Enterprises

<sup>5</sup> Article 276.3 of Decree No. 155/2020/ND-CP

<sup>6</sup> Article 282.2 of Decree No. 155/2020/ND-CP

<sup>7</sup> Article 276.4 of Decree No. 155/2020/ND-CP

<sup>8</sup> Article 62.1 of the Law on Credit Institutions

	<b>Other conditions</b>	- An individual may only serve as an independent director of a company for up to 2 continuous terms. <sup>9</sup>	- An individual may only serve as an independent director of a company for up to 2 continuous terms.	Similar to those applicable to Joint Stock Companies (Privately Held).		N/A
<b>NON-EXECUTIVE DIRECTORS</b>	<b>Compulsory / Optional</b>	Optional	Compulsory	Compulsory	Compulsory	Compulsory
	<b>Qualifications</b>	N/A <sup>10</sup>		- Not holding the position of the General Director, Deputy General Director, Chief Accountant and other executive officers as provided in the company's charter. <sup>11</sup>	- Not holding the position of an executive officer of the credit institution. <sup>12</sup> An executive officer of the credit institution can be the Director General, Deputy Director General, Chief Accountant, branch director or other equivalent positions as provided in the credit institution's charter. <sup>13</sup>	

<sup>9</sup> Article 154.2 of the Law on Enterprises

<sup>10</sup> The Law on Enterprises does not provide for a specific definition of non-executive directors. Therefore, for the qualification of non-executive directors of privately held joint stock companies, we believe the qualification applicable to non-executive directors of publicly held joint stock companies can also be applied by analogy.

<sup>11</sup> Article 3.56 of Decree No. 155/2020/ND-CP

<sup>12</sup> Article 62.1 of the Law on Credit Institutions

<sup>13</sup> Article 4.32 of the Law on Credit Institution

	<b>Requirements</b>	N/A	<ul style="list-style-type: none"> <li>- Member(s) of the Audit Committee (other than the Chairperson who has to be an independent director) must be non-executive directors.<sup>14</sup></li> </ul>	<ul style="list-style-type: none"> <li>- At least one third (1/3) of the Board of Directors must be non-executive directors.<sup>15</sup></li> <li>- Member(s) of the Audit Committee (other than the Chairperson who has to be an independent director) must be non-executive directors.<sup>16</sup></li> </ul>	<ul style="list-style-type: none"> <li>- The independent director(s) and the non-executive director(s) must constitute at least half of the Board of Directors.<sup>17</sup></li> </ul>
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Please contact us if you are interested in discussing any issues relating to the requirements on independent directors and non-executive directors under Vietnamese law.

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<sup>14</sup> Article 161 of the Law on Enterprises

<sup>15</sup> Article 276.2 of Decree No. 155/2020/ND-CP

<sup>16</sup> Article 282.2 of Decree No. 155/2020/ND-CP

<sup>17</sup> Article 62.1 of the Law on Credit Institutions